

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEWAZE LAXOTTER WHITFIELD,
Plaintiff,
v.
SMOLICH,
Defendant.

No. 2:21-cv-01218 DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a county inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order dated July 20, 2021, the court ordered plaintiff to file a properly signed and dated complaint. (ECF No. 3.) Additionally, the court ordered plaintiff to either submit an application to proceed in forma pauperis or pay the filing fee. (*Id.*) Plaintiff was given thirty days leave to file an amended complaint and pay the filing fee or submit the in forma pauperis application. (*Id.* at 5.) Plaintiff was warned that failure to abide by the court's order would result in a recommendation that this action be dismissed. (*Id.*)

Thirty days have passed. Plaintiff has not filed an amended complaint, paid the filing fee, filed an application to proceed in forma pauperis, requested additional time to file any of these documents, or otherwise responded to the court's order. Accordingly, the court will recommend that this action be dismissed for failure to prosecute and failure to comply with court orders.

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1 For the reasons state above, the Clerk of the Court is ORDERED to randomly assign a
2 district judge to this action.

3 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See
4 Local Rule 110; Fed. R. Civ. P. 41(b).

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after
7 being served with these findings and recommendations, plaintiff may file written objections with
8 the court and serve a copy on all parties. Such a document should be captioned
9 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
10 failure to file objections within the specified time may waive the right to appeal the District
11 Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: September 22, 2021

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15 DEBORAH BARNES
16 UNITED STATES MAGISTRATE JUDGE
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